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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/435,315	11/04/1999	PAUL D. MARKO	XM-0014	5073
7590	01/29/2004		EXAMINER	
WILLIAM J BENMAN BENMAN & COLLINS 2049 CENTURY PARK EAST SUITE 2740 LOS ANGELES, CA 90067			LEE, JOHN J	
			ART UNIT	PAPER NUMBER
			2684	/ /
DATE MAILED: 01/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/435,315	MARKO ET AL.	
	Examiner JOHN J LEE	Art Unit 2684	
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --			
Period for Reply			
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 			
Status			
<p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>13 November 2003</u>.</p> <p>2a)<input checked="" type="checkbox"/> This action is FINAL. 2b)<input type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>			
Disposition of Claims			
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>17-29</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>17-29</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>			
Application Papers			
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</p> <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p style="margin-left: 20px;">Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).</p> <p>11)<input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</p>			
Priority under 35 U.S.C. §§ 119 and 120			
<p>12)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p>1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p>2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p>3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p> <p>* See the attached detailed Office action for a list of the certified copies not received.</p> <p>13)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.</p> <p>a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p> <p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.</p>			
Attachment(s)			
<p>1)<input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .</p>		<p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____ .</p>	

DETAILED ACTION

Response to Arguments

1. The Applicant's arguments/amendment received on November 13, 2003 have been carefully considered but they are not persuasive because the teaching of the cited references as set forth in the previous rejection reads on all claimed limitation as claims 17 – 29. Thus, the finality of this Office Action is deemed proper.

Re Claim 17 and 29: The Examiner respectfully disagrees with Applicant's assertion that the Izadpanah et al. (US Patent number 6,560,213) does not teach the claimed invention "terrestrial repeater connected to a satellite antenna for decoding the satellite signal and recoding the signal into an intermediate frequency satellite radio terrestrial broadcast format signal". Contrary to Applicant's assertion, the Izadpanah teaches the claimed limitation that terrestrial repeater (Broadband fiber optic cable provides the data transfer between central node (4) through access point (8)) connected to a satellite antenna for decoding the satellite signal and recoding the signal into an intermediate frequency satellite radio terrestrial broadcast format signal (Fig. 1 teaches satellite broadcasts the multimedia signal (millimeter wave signal) through the satellite antenna in terrestrial repeater (central node (4) through access point (8)), and the terrestrial repeater converts into an intermediate frequency suitable for use by the equipment resident at the customer interface and then broadcasts the converting IF frequency to customers see Fig. 1 and column 3, lines 31 – column 4, lines 34). More specifically, Fig. 1 teaches a terrestrial repeater has received the RF multimedia signal (millimeter wave signal) from the satellite and decodes and recodes the RF multimedia

signal into **suitable intermediate frequency format** for broadcasting service to customers. Also, the RF satellite receiver, terrestrial repeater, performs receiving the RF signal from the satellite and converts into suitable an intermediate frequency format, the claim does not require/limit the terrestrial repeater is the particular pointing out system.

Applicant's attention is directed to the rejection below for the reasons as to why the claimed limitation is not patentable.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. **Claims 17, 19, and 21 – 29** are rejected under 35 U.S.C. 102(e) as being anticipated by Izadpanah et al. (US Patent number 6,560,213).

Regarding **claim 17**, Izadpanah discloses that a satellite digital audio radio multipoint distribution system comprising:

a satellite antenna (4 in Fig. 1) for receiving a satellite digital audio radio signal (Fig. 1 and column 3, lines 6 – 55);
a terrestrial repeater (4, 8 in Fig. 1) connected to said antenna for decoding said satellite signal and recording said signal into an intermediate frequency (IF) satellite radio terrestrial broadcast format signal (Fig. 1, 4 and column 4, lines 35 – column 5, lines 36);
a system for distributing said recoded IF frequency signal, (Fig. 1, 4 and column 4, lines 35 – column 5, lines 36) and

plural satellite digital audio radio service receivers (Fig. 1) adapted to receive said recorded IF signal from said distributing system (4 in Fig. 1) and provide an audio or visual output signal in response thereto (Fig. 1, 4 and column 4, lines 35 – column 5, lines 36).

Regarding **claim 19**, Izadpanah discloses that the format is multi-carrier modulation (Fig. 1, 4 and column 4, lines 35 – column 5, lines 36).

Regarding **claim 21**, Izadpanah discloses that each of said plural receivers includes a respective user interface to allow for channel selection and audio processing (Fig. 1, 4 and column 4, lines 35 – column 5, lines 36).

Regarding **claim 22**, Izadpanah discloses that a channel decoder integrated circuit adapted to receive said recoded signal and provide a digital bitstream output in response thereto (Fig. 1, 4, 6 and column 6, lines 14 – 60).

Regarding **claim 23**, Izadpanah discloses that a source decoder digital signal processor adapted to receive said digital bitstream and provide said output signal in response thereto (Fig. 1, 4, 6 and column 6, lines 14 – 60).

Regarding **claim 24**, Izadpanah discloses that the distribution system is a cable distribution system (Fig. 1, 3 and column 3, lines 31 – column 4, lines 34).

Regarding **claim 25**, Izadpanah discloses that the distribution system is a wireless distribution system (Fig. 1 and column 2, lines 63 – column 3, lines 24).

Regarding **claim 26**, Izadpanah discloses that the distribution system is a fiber-optic distribution system (Fig. 1, 3 and column 3, lines 31 – column 4, lines 34).

Regarding **claim 27**, Izadpanah discloses all the limitation, as discussed in claim 17.

Regarding **claim 28**, Izadpanah discloses all the limitation, as discussed in claim 17.

Regarding **claim 29**, Izadpanah discloses all the limitation, as discussed in claim 17.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 18 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Izadpanah in view of Marko et al. (US Patent number 6,154,452).

Regarding **claim 18**, Izadpanah discloses all the limitation, as discussed in claim 17. However, Izadpanah does not specifically disclose the limitation “the recorded signal is an XM radio terrestrial frequency multi-carrier modulated signal (XM radio format)”. However, Marko discloses the limitation “the recorded signal is an XM radio terrestrial frequency multi-carrier modulated signal (XM radio format)” (Fig. 1, 3, 16, column 7, lines 41 – column 9, lines 15). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of Izadpanah as taught by Marko. The motivation does so would be to improve broadcasting service for signal reception in satellite broadcast system.

Regarding **claim 20**, Izadpanah and Marko disclose all the limitation, as discussed in claims 17 and 18.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

Or:

(703) 308-6606 (for informal or draft communications, please label
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Art Unit: 2684

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John J. Lee** whose telephone number is **(703) 306-5936**. He can normally be reached Monday-Thursday and alternate Fridays from 8:30am-5:00 pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, **Nay Aung Maung**, can be reached on **(703) 308-7745**. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is **(703) 305-4700**.

J.L
January 21, 2004


NAY MAUNG
SUPERVISORY PATENT EXAMINER

John J Lee